Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Investigation of ALASCOM, INC.	)	CC Docket No. 95-182
Tariff FCC No. 11	)	

<u>COMMENTS OF GENERAL COMMUNICATION, INC.</u>

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General Communication, Inc. ("GCI") hereby replies to the Public Notice issued in the captioned proceeding on October 31, 2003.[1] In the Public Notice, the Commission seeks further comment in connection with its long-pending investigation of Alascom, Inc.'s ("Alascom") Tariff FCC No. 11. No intervening events since the tariff was first issued in 1995 have affected GCI's position regarding the tariff. It is evident that the Cost Allocation Plan process as implemented by Alascom is woefully inadequate and that this failing has not been remedied at any point since the tariff's inception. GCI urges the Commission to proceed with the investigation of the tariff, with all of its annual revisions, expeditiously issue an order designating issues for investigation, and set a briefing schedule.

I. Introduction and Summary

The instant tariff proceeding has been pending since 1995, the first time Alascom was required to tariff common carrier services for interstate switching and transport services between Alaska and the lower-48. This requirement was proposed by the Alaska Federal-State Joint Board and adopted by the Commission following a long proceeding to determine how the Alaska market would be best served. The Tariff 11 rate structure requires that rates be developed

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[1] "Further Comment Requested in Investigation of Alascom, Inc. Tariff FCC No. 11; Pleading Cycle Established," CC Docket No. 95-182, Public Notice, DA 03-3508 (rel. Oct. 31, 2003) ("Public Notice").

according to two rate zones—bush and non-bush—in recognition of the significant cost disparities between the two location classifications. The Commission was concerned that Alascom could exercise its monopoly control over services in bush locations to subsidize its offerings in competition with other carriers in non-bush locations. Moreover, compliance with the tariff should preclude Alascom from giving preferential treatment to its parent company AT&T.

Alascom allocates costs between the bush and non-bush locations in accordance with principles set forth in its Cost Allocation Plan ("CAP"). Though the CAP was subject to the Commission's review, tariff issues were expressly reserved to independent review, and there has not been any such review of the Alascom cost model nor the tariffed rates. Issues with the adequacy of cost support, rate structure, and rate level were apparent with the first filing and have continued through the most recent filing, Transmittal No. 1281, filed November 25, 2003. In the meantime, Alascom has sought to be released from its tariff filing obligation through petition and subsequently through a waiver process, the basis for which amounted to nothing more than Alascom's growing tired of collecting and updating the data necessary for revisions.

The Wireline Competition Bureau ("Bureau") has now asked the parties to the Alascom Tariff 11 investigation "to state their positions with respect to [Tariff 11]", indicating whether any events since the investigation was instituted in 1995 has caused any change in those positions.[2] GCI's positions in the proceeding have not changed, and in an effort to expedite the preparation of a designation order for the investigation, GCI has identified many key issues to which the Commission should direct Alascom to respond, including cost support data and rate development problems, switching and transport rates, demand data, bush and non-bush

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[2] Public Notice at 2.

classifications, and intracompany compliance with tariffing requirements. This investigation should be commenced without further delay.

II. No Events Since 1995 Have Affected Positions Taken by GCI in Challenging Alascom's Tariff FCC No. 11

The Commission states in the Public Notice that "[e]vents occurring since the initiation of the investigation may have affected the positions of the parties. Such events include changes in ownership of certain Petitioners, an additional Bureau order regarding Alascom's Cost Allocation Plan (CAP), and changes in the regulation of telecommunications services in Alaska."[3] None of these "events" has caused GCI to change any of its position in the investigation. To the contrary, Alascom's efforts to escape tariffing requirements altogether, both in its Petition to Eliminate Conditions and the recent waiver proceeding, only confirm that the Commission must proceed to a thorough review of Alascom's rates and practices under the tariff.

First, GCI has not undergone any change in ownership as described by the Bureau in connection with certain Petitioners, and thus, there has been no related event that would affect GCI's position in the proceeding. Second, the Bureau's 1997 order regarding the CAP did not reach any finding about the rates filed in the tariff. In fact, the CAP was approved without any Commission review of the cost model Alascom developed to implement the CAP (which the Commission did not even see before it first approved the CAP).[4] It is apparent from the order that the CAP is a cost allocation manual specific to Alascom—a description of how it purports to

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[3] Id. at 2 (internal footnote omitted).

[4] "In fact, the Bureau did not receive a copy of the cost model until after it had released the CAP Approval Order and did not review the model or rely upon it in rendering that decision." Alascom, Inc. Cost Allocation Plan for the Separation of Bush and Non-Bush Costs, Memorandum Opinion and Order on Reconsideration and Order Approving Cost Allocation Plan, 12 FCC Rcd 1991, 2006 (¶ 30) (Com. Car. Bur. 1997) ("CAP Approval Reconsideration Order").

allocate bush and non-bush costs. Yet, the lawfulness of the tariffs produced from the CAP model has never been decided. Indeed, the Commission expressly reserved that "Alascom's tariff and the related projected costs and demand figures are the subject of an investigation and questions relating to them will be resolved there."[5] In order to do so, however, Alascom must finally be required to produce the CAP model to interested parties, and to the extent that Alascom still claims the model it sought to abandon contains "competitively-sensitive data", production may be subject to the protective order that has already been entered for that purpose in this proceeding.[6]

Third, the Commission's lifting of the *de jure* restriction on competitive earth station facilities in the bush also has no effect on the issues presented in the tariff proceeding. Until the ruling in August 2003, competitive facilities for MTS in the bush generally were not permitted. Pursuant to a waiver, GCI has provided facilities-based MTS to 50 bush locations since 1996. The presence or absence of competition in any area (or potential for competition), however, does not have any effect on the tariff issues before the Commission, an issue expressly addressed in the 1997 CAP Order. In that order, the Bureau considered Alascom's proposal to reclassify bush locations as non-bush "based solely on the presence or absence of competition in providing interexchange service to those locations"[7] and determined that this approach was contrary to the public interest. Such a reclassification would discourage competition by requiring the new entrant to set competitive retail prices based on the non-bush rate, rather than location-specific costs. Alascom could immediately drop its rates upon reclassification, driving out the competitor

[5] Id. at 2011 (¶ 40).

[6] See General Communication, Inc. On Request for Inspection of Records, FOIA Control No. 2003-208; Alascom Petition for Waiver from the Commissions Rules and Order Requiring an Annual Tariff Filing, WC Docket No. 03-18; Protective Order, DA 03-2278 (Pric. Pol. Div., WCB rel. July 10, 2003).

[7] CAP Approval Reconsideration Order, 12 FCC Rcd at 2003 (¶ 25).

that faced higher costs in the bush, but was forced to compete based on Alascom's non-bush rates.[8] Once the competitor withdrew from the location, Alascom could then reclassify the location as bush, thereby raising the rate back to the average bush rate.

The Bureau was rightly concerned that the repeated reclassification of sites "could deter competitors from beginning, or continuing, to provide services at those locations."[9] As a result, reclassification based solely on the entry of a competitor "could inhibit the introduction of new technologies and competitive services in [current bush] locations, which would not be in the public interest."[10] It is telling that the Bureau adopted this policy after the Commission granted a limited waiver of the bush facilities restriction, permitting GCI to construct facilities in 50 bush sites, and thus, with the expectation of competitive entry in some of the bush locations. The Bureau plainly had the opportunity then to consider the effect of reclassification on competition that was actually occurring in a subset of the bush sites and determined that reclassification was a threat to competition. The policy remains in effect and applicable today, with no modification called for by the lifting of the bush facilities restriction. The lifting of regulatory barriers for competitive entry into additional bush sites will have no effect on the CAP, the CAP model, or the resulting rates, and thus, the change in policy has no effect on the tariff issues presented in this investigation. Moreover, GCI is not aware of any new entry that has occurred since the Commission issued its order in August, and Alascom's monopoly persists on a *de facto* basis.

While none of the factors discussed above have any impact on the tariff investigation, Alascom's repeated efforts to escape any tariff filing requirements require that the Commission

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[8] Alascom, Inc., Tariff FCC No. 11, Petition for Waiver of Annual Filing Requirement, Order, DA 03-2649 at ¶ 5 (rel. Aug. 13, 2003) ("Waiver Petition Order") (citing CAP Approval Reconsideration Order, 12 FCC Rcd at 2004-05).

[9] CAP Approval Reconsideration Order, 12 FCC Rcd at 2004 (¶ 27).

[10] Id.

take a hard look at Alascom's tariffed rates and rate structure, its own compliance with the tariff, and the effect that unlawful rates and practices may have had on the Alaska market since 1995. In 2000, Alascom and its parent, AT&T, filed a Petition to Eliminate Conditions,[11] seeking to be released from the structural and tariff obligations imposed by the Market Structure Order and to which Alascom and AT&T committed as a condition of the Commission's grant of AT&T's acquisition of Alascom and AT&T request for classification as a non-dominant carrier.[12] As part of its request to reformulate the market structure that the Alaska Federal-State Joint Board spent over 10 years formulating for the benefit of Alaskans, Alascom sought to be excused from its tariff filing requirement two years following grant of the petition. Before that request can even be entertained, however, it is necessary that the Commission conduct the instant tariff investigation to assess GCI's claim that Alascom has attempted to accomplish through its rate levels and structure exactly what the tariff is designed to prevent—subsidy of Alascom's service to the non-bush through its rates for the bush, thereby raising the cost of providing services to those bush communities where other carriers have not provided (and until recently were prohibited from providing) facilities-based competition.

The need for the imminent tariff investigation was highlighted further when Alascom sought to achieve unilaterally what it has been unable to secure through its Petition to Eliminate Conditions—escape from its annual tariff filing requirement under Section 61.58(e)(3) of the Commission's rules. Once Alascom deigned to seek a waiver of the requirement that it file an annual tariff revision,[13] its admissions in that proceeding revealed how dysfunctional its

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[11] AT&T Corp. and Alascom, Inc. Petition for Elimination of Conditions, CC Docket 00-46 (filed Mar. 10, 2000).

[12] See Waiver Petition Order at ¶ 17 (describing AT&T and Alascom commitments).

[13] Alascom first filed a "statement" in lieu of its 2003 annual revision, claiming that Alascom was "unable to determine whether changes to its investments, expenses and operations…would be sufficient to

ratemaking process has become and perhaps has been since its inception. Alascom described the CAP model—which the Commission has never reviewed, GCI has never seen, and is distinct from the CAP—as "an outdated model" for which Alascom experienced a "lack of data necessary to run."[14] Alascom also stated that "several years' experience suggests that the CAP model may not continue to function as anticipated."[15] This statement necessarily begs the questions when the CAP model ceased to "function as anticipated" and did it ever "function as anticipated," a determination that has never been made.

In their review of "the computer process used to generate [Alascom's] CAP-based rates for prior years," Alascom's consultants delivered a similar indictment of the CAP model used to develop Tariff 11 rates. They stated that "the data underlying the CAP model designed by Alascom more than seven years ago . . . changed dramatically."[16] At the same time, the workings of the CAP model itself seemed to stymie even Alascom's consultants, who reported that "[t]he structure of the CAP software, itself, makes it difficult today to understand, conceptually, how the model is functioning. . . . "[17] It finally appears to be time to conduct the "*de novo* examination of the code and the input data in an effort to infer what the model designers originally intended,"[18] as Alascom's consultants recommended when faced with the prospect of analyzing the CAP model themselves.

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warrant rate revisions now for 2003," that the process was "burdensome," and that "the Commission foresaw that annual revisions might become unnecessary." Statement of Alascom, Inc., Investigation of Alascom, Inc. Interstate Transport and Switching Services, CC Docket 95-182 (filed Nov. 27, 2002).

[14] Alascom Petition for Waiver of Commission's Rules Regarding its Annual Tariff FCC No. 11, WC Docket No. 03-18 (filed Jan. 7, 2003) ("Alascom Petition for Waiver ") at 2.

[15] Id. at 10.

[16] Id., Declaration of Klick and Murphy at ¶ 6.

[17] Id., Declaration of Klick and Murphy at ¶ 14.

[18] Id., Declaration of Klick and Murphy at ¶ 15.

Finally, the Bureau recently rejected Alascom's request to be released from its 2003 annual tariff filing requirement. In that order, the Bureau underscored the central reason for commencing the long-pending investigation of Tariff 11: "Alascom is still the only provider of facilities-based transport and switching services for origination and termination of interexchange traffic to and from many Alaska bush communities."[19] Unless lawful rates are established for the Tariff 11 services, then Alascom's "possible incentive to discriminate against competitors or cross-subsidize competitive, non-bush services with revenues from non-competitive bush services" is a reality.[20] Because the significant cost disparities between non-bush and bush locations remain, Alascom must be required to tariff just and reasonable rates for its common carrier services.

III. Alascom Tariff 11 Initial Rates and All Subsequent Rate Revisions Raise Substantial Questions of Lawfulness that Must Be Resolved in the Tariff Investigation

The purpose of the tariff for Alascom's common carrier services is to promote competition for services in the Alaska market by ensuring that Alascom does not subsidize its competitive non-bush operations with its generally non-competitive bush operations and does not discriminate in favor of its parent, AT&T.[21] Given the significant cost differences in serving locations in each of these two rate zones, the Alaska Federal-State Joint Board and the

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[19] Waiver Petition Order at ¶ 17.

[20] Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands, Memorandum Opinion and Order, 9 FCC Rcd 3023 (¶ 4) (1994) ("Market Structure Order"). See also Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands, Final Recommended Decision, 9 FCC Rcd 2197, 2205-07(¶¶ 60-68) (Jt. Bd. 1993) ("Final Recommended Decision").

[21] Market Structure Order, 9 FCC at 3024 (¶ 11) (1994). GCI serves 50 bush locations with its own facilities.

Commission concluded that competitive entry could be precluded if Alascom were permitted to discriminate against competitors or cross-subsidize non-bush services with revenues from bush services,[22] and thus required Alascom to file Tariff 11 and to update its costs and revise the rates annually. From its initial filing, Alascom's Tariff 11 raised significant questions about the allocation of costs between bush and non-bush locations, and these questions remain today. Therefore, the Commission should issue an order designating issues for investigation and establish a briefing schedule without delay.

In each section below, GCI sets forth the basis for its complaint against the Alascom tariff filings from 1995 to present and then enumerates issues the Commission should designate for investigation and documentation that Alascom must be directed to provide for interested parties to be able to "fully evaluate Alascom's claims, dispute their accuracy, or participate meaningfully in any discussion of whether the CAP produces appropriately cost-based rates."[23] Moreover, disclosure of the data underlying Alascom's tariff filings that are under investigation is "consistent with the public interest in open tariff proceedings, and the Commission's long-standing rules and policy in favor of disclosure of confidential tariff support materials pursuant to protective order."[24]

A. Cost Support Data and Rate Development Problems

As a practical matter, the lack of detail provided in the cost support accompanying each of the Tariff 11 transmittals has made it difficult to analyze the reasonableness of the rates. Since the inception of Tariff 11, there have been substantial questions raised concerning the allocation of costs for the development of bush and non-bush rate elements. The "black box"

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[22] Id. at 3023. See also Final Recommended Decision, 9 FCC Rcd at 2205-06 (¶¶ 60-68).

[23] Waiver Petition Order at ¶ 32.

[24] Letter Decision from Joseph T. Hall, Wireline Competition Bureau, to Timothy R. Hughes, Counsel to GCI, FOIA Request Control No. 2003-208 (dated Apr. 10, 2003) at 7.

nature of Alascom's cost allocation and rate development has contributed to these questions, and the Bureau has consistently questioned "the adequacy of Alascom's cost support."[25] Moreover, the accuracy of the Alascom cost support is seriously in question given Alascom's recent admissions of the deficiencies of the CAP process—at the very least over time, but which may extend to the initial filings—and Alascom's steadfast refusal to provide access to the documentation and data that would reveal the extent and impact of these deficiencies.

Alascom recently offer myriad examples of the deficiencies of the CAP process. For example, Alascom states that it disaggregated total MOUs into bush and non-bush "pursuant to procedures described in Alascom's CAP."[26] However, since Alascom continues to withhold the CAP model, GCI has no way of determining how the minutes are divided or what the division was for any given filing. Moreover, Alascom itself has described the deficiencies of the CAP model that appear to extend to this disaggregation process, previously attesting through its consultants that dial equipment minutes ("DEM") in the CAP are hard-coded.[27] If these hard-coded DEM ratios are being applied to disaggregate minutes into bush and non-bush categories, there is no reason to believe the correct DEM factor is being used, particularly considering Alascom's own disparagement of the CAP as outdated. This same concern applies equally to the apportionment of costs between bush and non-bush categories for switching and transport.

These problems apparently continue. In its most recent filing, Transmittal No. 1281, Alascom states that "[d]uring the preparation of the instant transmittal, it was determined that

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[25] See, e.g., Alascom, Inc. Revisions to Tariff FCC No. 11, Transmittal No. 852, Order, 12 FCC Rcd 3646, 3649 (¶ 6) (Com. Car. Bur. 1997).

[26] See, e.g., Alascom, Inc., Tariff FCC No. 11, Transmittal No. 921, Description and Justification at 7 (filed Oct. 3, 1997); Transmittal No. 993, Description and Justification at 7 (filed Oct. 2, 1998); Transmittal No. 1260, Description and Justification at 7 (filed Nov. 27, 2001).

[27] Alascom Petition for Waiver, WC Docket No. 03-18, Declaration of Klick and Murphy at ¶ 30 (filed Jan. 7, 2003).

data problems affected the rate making process in certain past transmittals. Alascom will rectify any such discrepancies with the relevant customers promptly."[28] This comment is not unlike the general indictments of the CAP process offered by Alascom in its recent effort to escape its annual filing requirement, including the unavailability of call records, hard-coded allocation factors, and increasingly stale data used as part of the tariff development process.[29]

In the context of the tariff investigation, the Commission must require Alascom finally to shine the light on the CAP process. It is critical at the outset of the investigation for Alascom to clarify that process. It appears that the terms "CAP" and "CAP model" have been used interchangeably at times, even though they plainly serve two different purposes, in that the CAP is a descriptive guide to the cost allocation process, but the actual process is apparently carried out by the CAP model, which has never been provided to GCI and never approved by the Commission.[30] Alascom has withheld the models and cost data underlying the so-called "CAP process"—and thus, the cost development for its tariffed rates—for years, despite the fact that recent staff efforts in the context of the Alascom waiver proceeding yielded a Protective Order agreed upon by the parties, that is applicable for each of the tariff investigation proceeding, the waiver proceeding, and GCI's FOIA request.[31] Indeed, Alascom's refusal to release the CAP, CAP model, and related data was a key factor in the Bureau's decision to deny Alascom's request to be relieved from the obligation to file a 2003 annual tariff revision. In that

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[28] Alascom, Inc. Tariff FCC No. 11, Transmittal No. 1281, Description and Justification at n.6 (filed Nov. 25, 2003).

[29] See, e.g., Alascom Petition for Waiver at 11.

[30] See n.5 supra.

[31] General Communication, Inc., On Request for Inspection of Records, FOIA Control No. 2003-208, Alascom Petition for Waiver from the Commission Rule and Order Requiring an Annual Tariff Filing, WC Docket No. 03-18; Protective Order, DA 03-2278 (Pric. Pol. Div., WCB rel. July 10, 2003); id. at ¶ 13 (applying Protective Order to documents filed in the Investigation of Alascom Tariff FCC No. 11, CC Docket No. 95-182).

proceeding, Alascom claimed that the CAP process "no longer serves its intended purpose, running the CAP is unduly burdensome to Alascom, and the CAP produces increasingly unreliable results."[32] Even so, Alascom still expected to keep this information from parties to the proceeding, contrary to Commission policies favoring release of data (pursuant to protective order when claims of confidentiality are raised) in connection with tariff matters.[33] In addition, given Alascom's own claimed difficulty in understanding and performing the CAP process, any analyses conducted by Alascom or its consultants elucidating these issues should be made available to the Commission and interested parties to move forward the purpose of the investigation.

If Alascom refuses to release such data in the context of a tariff investigation, then it will be unable to demonstrate the lawfulness of any of its rates in effect since January 1996. Therefore, the Commission should require Alascom to provide the CAP, all cost models and its cost study in electronic format for full analysis, as set forth in greater detail below. The Commission has already adopted a Protective Order to govern the sharing of such information, which will provide sufficient protection against any of Alascom's (unsubstantiated) claims of confidentiality. Moreover, based on the inadequate support and information that has been available since 1995, the Commission should permit parties to seek additional data or raise further issues once Alascom provides the relevant models and cost studies.

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[32] Waiver Petition Order at ¶ 32.

[33] GCI does not concede that the information that Alascom seeks to keep from interested parties is in fact confidential. In addition to the dubious nature of any claim of confidentiality with respect to outdated and stale data, GCI has demonstrated that much of the information Alascom claims to be confidential is actually available through public records and/or is of the type of information typically shared between the companies. See GCI Response to Supplement to Waiver Request and Supplement to Response to FOIA Request, WC Docket 03-18 and FOIA Control No. 2003-208 (filed Apr. 9, 2003). Against the background of Alascom's own admissions of the deficiencies of the CAP process, it is conceivable that Alascom simply wishes to keep the extent of these deficiencies from public scrutiny.

Issues to be designated for investigation. The Commission should direct Alascom to comply with the following requirements:

1. Describe in detail each step in the "CAP process", as Alascom's consultants used that term in its Petition for Waiver to be relieved from Commission rule and orders requiring annual tariff revision, filed on January 7, 2003. As part of the description, explain how the CAP, the CAP model, any other economic model, and any jurisdictional separations study are used in the development of Tariff 11 rates;

2. Describe in detail the "data problems" reported in Transmittal No. 1281 that "affected the rate making process in certain past transmittals" and identify the past transmittals affected, including the rate element and how each rate element was affected. Alascom should also explain how it proposes to "rectify any such discrepancies with the relevant customers;"

3. Provide any and all versions of the "Cost Allocation Plan for the Separation of Bush and Non-Bush Costs" ("CAP"), including electronic versions;

4. Provide any and all versions of the "Cost Allocation Plan for the Separation of Bush and Non-Bush Costs" ("CAP") used by Alascom or any outside consultant employed by Alascom, to formulate and/or support Tariff 11, including electronic versions. Alascom must designate the tariff filing for which each respective version of the CAP was employed to develop;

5. Provide exact copies of any and all versions of the CAP, including electronic versions, provided by Alascom to the Commission or the Bureau at any time from 1994 through the present;

6. Provide exact copies of any and all versions of the CAP, including electronic versions, provided by Alascom to any outside consultants, including John C. Klick and Julie A. Murphy;

7. Provide any and all versions of any economic models, including electronic versions, used or relied upon by Alascom to formulate and/or support Tariff 11, any of Alascom's annual rate revisions to Tariff 11, or the CAP. For each version of a given economic model produced, Alascom must designate the Tariff 11 filing or CAP with respect to which each respective economic model was employed;

8. Provide exact copies of any and all versions of any economic models used or relied upon by Alascom to formulate and/or support Tariff 11, any of Alascom's annual rate revisions to Tariff 11, or the CAP that were provided by Alascom to the Commission or the Bureau at any time from 1994 through the present;

9. Provide exact copies of any and all versions of any economic models used or relied upon by Alascom to formulate and/or support Tariff 11, any of Alascom's annual rate revisions to Tariff 11, or the CAP that were provided by Alascom to any outside consultants, including John C. Klick or Julie A. Murphy;

10. Provide any and all versions of any jurisdictional separations cost studies, including electronic versions, used or relied upon by Alascom to formulate and/or support Tariff 11, any of Alascom's annual rate revisions to Tariff 11, or the CAP. For each version of a given jurisdictional separations cost study produced, Alascom must designate the Tariff 11 filing or CAP with respect to which each respective jurisdictional separations cost study was employed;

11. Provide exact copies of any and all versions of any jurisdictional separations cost studies used or relied upon by Alascom to formulate and/or support Tariff 11, any of Alascom's annual rate revisions to Tariff 11, or the CAP that were provided by Alascom to the Commission or the Bureau at any time from 1994 through the present;

12. Provide exact copies of any and all versions of any jurisdictional separations cost studies used or relied upon by Alascom to formulate and/or support Tariff 11, any of Alascom's annual rate revisions to Tariff 11, or the CAP that were provided by Alascom to any outside consultants, including John C. Klick or Julie A. Murphy;

13. Provide any analysis of any version of the CAP, CAP model, or any other economic model or jurisdictional separations cost study used to develop Tariff 11 rates, performed by John C. Klick, Julie A. Murphy, any outside consultants employed by Alascom, and/or any employee of Alascom;

14. Provide any and all input data used by Alascom and/or any outside consultants employed by Alascom to populate, formulate, or run the CAP or CAP process, as well as any and all input data and assumptions used in any economic model or cost study supporting the CAP or CAP process. Alascom must designate the Tariff 11 filing or CAP or CAP process with respect to which each set of input data was employed. Alascom must also explain how it revised the input data from year to year to ensure that its tariffed rates for common carrier services were cost-based;

15. Provide any and all input data used by Alascom and/or any outside consultants employed by Alascom to populate, formulate, or run the CAP or CAP process that has been provided by Alascom to the Commission or the Bureau at any time from 1994 through the present, as well as any and all input data used in any economic model supporting the CAP or CAP process that has been provided by Alascom to the Commission or the Bureau at any time from 1994 through the present;

16. Provide any and all input data used by Alascom and/or any outside consultants employed by Alascom to populate, formulate, or run the CAP model that has been provided by

Alascom to any outside consultants, including John C. Klick or Julie A. Murphy, as well as any and all input data used in any economic model or cost study supporting the CAP or CAP process that has been provided by Alascom to any outside consultants, including John C. Klick or Julie A. Murphy;

17. Provide exact copies of the following materials: (a) the CAP and any supporting materials submitted by Alascom to the Commission or the Bureau on or about August 29, 1994; (b) the revised CAP and any supporting materials submitted by Alascom to the Commission or the Bureau on or about July 3, 1995; and (c) the revised CAP and any supporting materials submitted by Alascom to the Commission or the Bureau on or about November 13, 1995;

18. Provide exact copies of the following documents submitted by Alascom to the Commission or the Bureau in support of Alascom's CAP and tariff filings on or about November 29, 1995: (a) a description of Alascom's Common Carrier Services Tariff Rate Development; (b) a Table of Alascom's Interstate Prospective Costs for 1996; (c) Alascom Historical Demand information; (d) Alascom's Prospective Demand Forecast; (e) Alascom's 1996 Demand Forecast for Bush and non-Bush; (f) a Table containing information on Total Company Plant in Service expenses; (g) a Table containing information on Total Company Depreciation Reserve; (h) a Table containing information on Total Expenses; (i) a Table containing information on Total Depreciation Expenses; and (j) Tables containing information on the CAP model, including model results;

19. Provide exact copies of the following documents submitted by Alascom to the Commission or the Bureau on or about November 30, 1995: (a) Table on Network Demand by Non-Bush Location; and (b) Tables containing CAP Model results;

20. Provide exact copies of the following documents submitted by Alascom to the Commission or the Bureau on or about December 4, 1995: (a) a description of Alascom's revised Common Carrier Services Tariff Rate Development; (b) a Table containing Alascom's Demand Analysis; (c) Tables containing Alascom's Alaska Terminating Demand, Originating Demand, and Total Alaska Demand; (d) a Table listing Non-Bush Demand by location; (e) a chart of "Development of 1996 Bush and non-Bush Demand; (f) Tables listing Total Company 1996 separation categories and amounts; (g) Tables listing Total Company pro forma data; (h) Tables showing implementation of Alascom's CAP model; and (i) Prospective Rate Information – Appendix D. Alascom should also describe the differences between its rate development and/or modeling process for Transmittal No. 790 and Transmittal No. 797;

21. Provide exact copies of any and all electronic versions of the CAP, the CAP Model, any economic model, or any cost study that Alascom provided to the Commission or the Bureau at any time;

22. Identify by date and provide all sets of data that were relied on by Alascom or its consultants in preparing the analysis submitted by Alascom in support of its Petition for Waiver;

23. Provide the "internal research" identified by Alascom in its March 28, 2003 email from Charles Naftalin, counsel for Alascom, Inc., to Julie Saulnier, Pricing Policy Division, Joe D. Edge, counsel for GCI and Tina Pidgeon, in-house counsel for GCI (attached as Exhibit 1);

24. Calculate and report the difference in rate and the total damages, including interest at the I.R.S. rate for overcharges, that would be due to all Tariff 11 customers (including its parent AT&T), if Alascom had filed revised rates effective January 1, 2003, as required by Commission rules, at the level ultimately tariffed effective October 31, 2003. Provide all supporting data, documents, worksheets, and calculations used to prepare the response;

25. Describe the "assistance" provided by "independent economic experts" to produce Transmittal No. 1278. Identify the economic experts employed by Alascom for this purpose, and provide any analysis, report, assessment, or other documents prepared by the economic experts for this purpose, and all data, models, materials, and documents used, studied or relied on by such experts in preparing same.

B. Switching Rates

In addition to providing cost support data, Alascom must also address issues related to rate level and rate structure. First and foremost, the Alascom switching rates are wrong. Since 1995, Alascom has tariffed different bush and non-bush switching rates, with bush switching rates remaining substantially higher than the non-bush switching rates from year-to-year. However, there is no switch that is dedicated to bush traffic, no switch is located in bush locations, and Alascom employs the same switching equipment to carry both bush and non-bush traffic. By establishing two different rates for switching, Alascom undertook to accomplish exactly that result the tariff was intended to guard against—subsidizing lower non-bush rates with revenues from the bush. Each year, including in its most recent filing, Alascom has filed disparate rates for one service provided for all Tariff 11 traffic, regardless of its origination or termination in bush or non-bush locations—common carrier switching.

The Tariff 11 switching rates have varied dramatically and without any cognizable pattern over the past nine years, as set forth in the following table:

Transmittal No. and Date	Non-Bush Switching Rates	Bush Switching Rate	Difference (bush – non-bush)
Transmittal No. 790 September 22, 1995	$0.0171	$0.0462	$0.0291
Transmittal No. 797	$0.0218	$0.0381	$0.0163

December 14, 1995			
Transmittal No. 852 November 15, 1996	$0.0230	$0.0334	$0.0104
Transmittal No. 921 October 3, 1997	$0.0305	$0.0334	$0.0029
Transmittal No. 993 October 2, 1998	$0.0271	$0.0333	$0.0062
Transmittal No. 1088 November 24, 1999	$0.0222	$0.0408	$0.0186
Transmittal No. 1184 November 22, 2000	$0.0190	$0.0366	$0.0176
Transmittal No. 1260 November 27, 2001	$0.0174	$0.0357	$0.0183
Transmittal No. 1278 September 26, 2003	$0.0131	$0.0311	$0.0180
Transmittal No. 1281 November 25, 2003	$0.0104	$0.0226	$0.0122

As the table demonstrates, over the first three years of the tariff, the gap between the bush and non-bush rates narrowed significantly, from $0.0291 per minute in 1995 to $0.0062 in 1998. Then a dramatic shift occurred, with the gap shooting back up to $0.0186 in the 1999 filing, never again to be narrowed to the 1998 level. With the scant cost information provided by Alascom over the years, it is impossible to know what would cause these shifts, given that there could not have been any bush- or non-bush-specific equipment change.

Alascom recently claimed that shifting differences in the switching rates resulted from changes in minutes of demand between bush and non-bush locations.[34] This is a departure from previous Alascom claims that its bush switching rate should be higher because bush locations are

[34] Opposition of Alascom to Petition of GCI to Suspend and Investigate, Transmittal No. 1278 (filed Oct. 23, 2003). Alascom's claim that "differences in demand characteristics and CAP cost allocation procedures developed by the FCC allocate more costs to the Bush locations" is nonsensical. Cross-subsidy of non-bush costs with bush revenues is exactly what the tariff process is designed to avoid.

isolated and subject to severe weather conditions.[35] Alascom's recent "defense" is also contrary to the CAP itself, which provided that switching costs are to be "attributed based on the over-all proportion of traffic served by the toll center."[36] None of these changing claims, however, answers the central question: why should a minute of bush switching cost be any different from a minute of non-bush switching cost when each minute of traffic *utilizes the same equipment?* The Commission must address this issue in the investigation.

Issues to be designated for investigation. With respect to switching rates, Alascom should be required to explain why different bush and non-bush switching rates are just and reasonable when the same equipment is used for both location classifications, and no switching facilities are located in the bush. The Commission should also require Alascom to identify with specificity the basis for projecting the following: differences in bush and non-bush switching costs in each year from 1995 to present, changes in total switching costs in each year from 1995 to present, and changes in total switching demand in each year from 1995 to present.

Alascom should also provide the switching rate that would have been in place each year had the same switching rate for bush and non-bush traffic been tariffed and calculate the damages, including interest at the I.R.S. rate for overcharges, that would be due to all Tariff 11 customers (including its parent AT&T) had those same rates been tariffed. Alascom should provide with this response all supporting data, documents, worksheets, and calculations used to prepare the response.

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[35] Alascom, Inc. Tariff F.C.C. No. 11, Transmittal No. 790, Order, 10 FCC Rcd 3703, 3706 (¶ 9) (Com. Car. Bur. 1995) (citing Alascom Reply, Transmittal No. 790, CC Docket No. 95-182 (filed Oct. 23, 1995) at 4).

[36] Alascom CAP at IV-38.

Finally, Alascom should explain any significant change in investment or expenses in bush, non-bush, or total switching, including the impact of any hard-coded data or allocators in the CAP model.

C. Transport Rates

The relationship between investment and operating expense data reported by Alascom in its Description and Justifications accompanying its tariff filings has reflected no discernible rational relationship since the first Tariff 11 filing in 1995. In that initial filing, Alascom reported bush intra-Alaska transport investment to be approximately 10 percent of total Alascom investment, but that bush operating expenses to be approximately 40 percent of total investments.[37] This disparity between investment and expense is suspect, given that expenses are typically allocated based on usage under the CAP. In this example, it appears that expenses were allocated on some other basis than the associated investment, which may have produced the unreasonable result of overallocating expenses to the bush transport network.

Questionable patterns continued through subsequent filings. For example, in Transmittal No. 1088, the annual revision for 2000, Alascom projected investment increases for Alaska/CONUS transport by $6.3 million, or 18 percent, accompanied by a decrease in operating expenses of $7.1 million, or 50 percent,[38] when Alascom had leased additional fiber capacity. In that same filing, the expense to investment ratio for non-bush transport decreased from 2.80 to 1.28. No justification was provided for this sharp decrease. And at the same time, the bush transport rates increased significantly. This is exactly the type of rate changes that should be cause for concern that Alascom's bush rates are being used to subsidize non-bush rates.

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[37] Alascom, Inc. Tariff FCC No. 11, Transmittal No. 790, Description and Justification at 5.

[38] Compare Alascom, Inc. Tariff No. 11, Transmittal No. 1088, Description and Justification at 6 (filed November 24, 1999) with Alascom, Inc. Tariff No. 11, Transmittal No. 993, Description and Justification at 6 (filed October 2, 1998).

Issues to be designated for investigation. Alascom should be required to explain the significant growth of its bush intra-Alaska transport investment from 1995 ($8,725,841) through the most recent filing, Transmittal No. 1281 ($71,480,726), an increase of over 700 percent in nine years. Alascom should also explain how transport investment is allocated between bush and non-bush intra-Alaska transport. For both bush intra-Alaska transport, non-bush intra-Alaska transport, and Alaska/CONUS transport, Alascom must explain the cause for any significant change in expense or investment from one year to the next, including the impact of any hard-coded data or allocators in the CAP model.

D. Demand Data

The Alascom demand data for Tariff 11 rate development is as erratic as its switching rates. In each of the first three tariff filings, Alascom projected demand of over a million minutes. For the next three filings, Alascom's projected demand was quite close to the actual demand it reported in subsequent tariff filings. But since Transmittal No. 1260, filed November 27, 2001, Alascom's data seems particularly unreliable. This is consistent with Alascom's admission that "for the 2003 run, call records for all interstate calls made from Alascom facilities are unavailable, and essentially unobtainable, for a large portion of 2002."[39] As a result, Alascom cannot yet report actual demand for 2002. These problems apparently continue. In Transmittal No. 1278, the 2003 annual filing that was delayed until September 26, 2003, Alascom projected 936,352 total minutes of demand, based in part on actual data, but just two months later, filed a revised estimate for 2003 of 1,003,936 based on November 2002 through

[39] Alascom Petition for Waiver at 11.

October 2003 data.[40] These demand data discrepancies must be detailed and resolved as part of the tariff investigation

Issues to be designated for investigation. For all prior years, from 1996 up to and including the most recent month for which demand data is available (and for each month in any incomplete year), the Commission should direct Alascom to submit actual total demand and the actual demand for each rate element, including all supporting data, documents, worksheets, and calculations used to prepare the response. For any year in which Alascom cannot produce actual data, it must explain what data is missing, and how Alascom compensated for the missing data in its rate development. In addition, given the fact that Tariff 11 is a rate-of-return filing,[41] Alascom should report its earnings for each year, which tends to be related to the relative accuracy of the demand projection in a given year.

E. Bush and Non-Bush Classifications

The classification of locations as bush or non-bush was contested in the initial Tariff 11 filings and in connection with Commission review of the Alascom CAP. The ultimate result was to freeze the non-bush locations at 33, with the remaining locations designated as bush. The Commission concluded that the remaining bush locations "shared similar cost and demand characteristics," including the 50 bush sites where GCI has installed competitive facilities.[42] Any changes in classification are permitted only upon petition to the Commission. No such petition has been filed.

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[40] Alascom, Inc. Tariff No. 11, Transmittal No. 1281, Description and Justification at 7 (filed Nov. 25, 2003).

[41] See Market Structure Order, 9 FCC Rcd at 3027 (¶ 24).

[42] CAP Approval Reconsideration Order, 12 FCC Rcd at 2002 (¶ 22). See also id. at paras. 21-28.

Issues to be designated for investigation. The Commission should require Alascom to demonstrate that the CAP model, or any other economic model that was used to produce Tariff 11 rates, allocated costs according to the Commission-approved list of bush and non-bush classifications for every Tariff 11 transmittal. In the event that bush and non-bush locations as used to run the CAP model deviated from the Commission-approved list for any time period, Alascom should recalculate the rates for each Tariff 11 rate element had the costs been allocated according to the Commission-approved list and calculate the damages, including interest at the I.R.S. rate for overcharges, that would be due to all Tariff 11 customers (including its parent AT&T) had the recalculated rates been tariffed. Alascom should provide with this response all supporting data, documents, worksheets, and calculations used to prepare the response.

F. Intra-Company Compliance with Tariff and Tariff Filing Requirements

Alascom is required to provide its common carrier services under a non-discriminatory, cost-based tariff. As part of this tariffing obligation, AT&T is required to purchase Tariff 11 services under the tariffed rate, and the companies are required to record intra-company transfers pursuant to the affiliate transaction rules, codified at Section 32.27.[43] As such, to the extent that any refunds are awarded as a result of this tariff investigation, Alascom must also issue such refunds to AT&T, described by Alascom as "the only substantial 'customer' of Alascom's CCS service."[44]

Issues to be designated for investigation. The Commission should require Alascom, and, to the extent necessary, its parent company AT&T, to submit documentation demonstrating that Alascom and AT&T have complied with Tariff 11 when Alascom provides Tariff 11

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[43] See Applications of Alascom, Inc., AT&T Corporation and Pacific Telecom, Inc. for Transfer of Control of Alascom, Inc. from Pacific Telecom, Inc. to AT&T Corporation, Order and Authorization, 11 FCC Rcd 732, 755-57 (¶¶ 53-55) (1995).

[44] Alascom Petition for Waiver at 7.

services to AT&T. This documentation will also be necessary to determine whether and to what extent Alascom is required to remit damages to AT&T.

In addition, the Commission adopted the Joint Board recommendation that "[t]he terms, rates and conditions of any contract between AT&T and Alascom must be made available to all similarly situated customers."[45] In its Petition to Suspend the first Tariff 11 filing, GCI pointed out that "the Alascom tariff does not contain all of the services provided by Alascom to AT&T nor has AT&T filed a tariff for services provided to Alascom," offering examples like credit card validation and SS7 signaling to support 800 number and other services.[46] To GCI's knowledge, this issue was not resolved in subsequent transmittals

Issues to be designated for investigation. The Commission should require Alascom to state whether any services it provides to or receives from AT&T are not tariffed. If any services fall into either category, Alascom should explain why the failure to tariff any such service does not violate this requirement of the Market Structure Order.

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[45] Final Recommended Decision, 9 FCC Rcd at 2217 n.185.

[46] GCI Petition to Reject or in the Alternative to Suspend and Investigate, Transmittal No. 790 (filed October 10, 1995) at 10-11.

IV. Conclusion

The Commission should activate the pending investigation by immediately issuing an Order Designating Issues for Investigation, including the issues identified herein, and setting a briefing schedule for interested parties.

Respectfully submitted,

GENERAL COMMUNICATION, INC.

/s/

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Dated: December 15, 2003

CERTIFICATE OF SERVICE

I, Colleen A. Mulholland, do hereby certify that a copy of the foregoing Comments of General Communication, Inc. were sent via first-class mail and electronic mail to the addresses indicated below this 15th day of December, 2003, to the following:

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